IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 6987 of 2007()

CRIME NO. 29/07 OF KUNNAMANGALAM EXCISE RANGE

PETITIONER/ACCUSED

RADHA, DAUGHTER OF CHATHAN,
CHERUTHADATHIL, THAZHEKKODU AMSOM AND DESOM
OF KOZHIKODE TALUK.

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS:

EXCISE INSPECTOR,
KUNNAMANGALAM EXCISE RANGE,
KOZHIKODE DISTRICT THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 6987 of 2007

- -

Dated this the 21st day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. She was allegedly found to be in possession of 2 litres of arrack when she was intercepted by the Excise officials on 16.7.2007. She could not be arrested as the Detecting party did not consist of any woman police official. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Her arrest and detention is absolutely unnecessary. She may be granted anticipatory bail, it is prayed.

3. The learned Prosecutor opposes the application. He submits that the petitioner may be directed to surrender before the learned Magistrate and seek regular bail in the ordinary course. There are no circumstances justifying the invocation of

the extra ordinary equitable discretion under Section 438 Cr.P.C., submits the learned Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. I am certainly of the opinion that it is for the petitioner to surrender before the learned Magistrate and seek regular bail in the ordinary course. In the peculiar facts and circumstances of this case, I further direct that the application to be filed by the petitioner on her surrender must be considered by the learned Magistrate on merits, in accordance with law and expeditiously - on the date of surrender itself, if sufficient prior notice is given to the learned Prosecutor in charge of the case.

5. With the above observations, this application is dismissed.

(R. BASANT)
Judge

tm